



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: August 30, 2021
MOAHR Docket No.: 21-003517
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference line on August 23, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Khaled Abouelazm, specialist.

ISSUE

The issue is whether MDHHS properly sent Petitioner termination of Petitioner's Medicaid eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2020, Petitioner was an ongoing recipient of Medicaid under the category of Healthy Michigan Plan (HMP). Petitioner was also unmarried, not pregnant, not a caretaker to children, between the ages of 19 and 64 years, and not disabled.
2. On an unspecified date, Petitioner submitted to MDHHS verification of gross weekly employment income of ██████████
3. On June 2, 2021, MDHHS sent Petitioner notice of HMP termination beginning July 2021 due to excess income.
4. On ██████████, 2021, Petitioner requested a hearing to dispute the termination of HMP.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing after receiving a notice informing her of a termination of MA benefits. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice (HCCDN) dated June 2, 2021, stated that Petitioner was ineligible for various Medicaid categories beginning July 2021.¹ Exhibit A, pp. 20-23. Determining whether MDHHS properly sent notice of MA termination requires a consideration of Medicaid categories.

The Medicaid program includes several sub-programs or categories. BEM 105 (January 2020), p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

It was not disputed that Petitioner was aged 19-64 years, not pregnant, not disabled, and not a caretaker to minor children as of the MA termination month. Under the circumstances, Petitioner's only potential to receive MA benefits is under the HMP category. The notice dated June 2, 2021, stated that Petitioner was ineligible for HMP due to excess income.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013.

¹ It was not disputed that MDHHS continued to issue MA benefits despite the closure letter. The only reason Petitioner continued to receive MA benefits was a temporary policy during the COVID-19 pandemic which prohibits closures of MA benefits. ESA 2020-12. Because the policy is temporary, Petitioner is entitled to an administrative hearing to determine if MDHHS can close Petitioner's MA eligibility once the policy ends.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.² 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.³

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁴ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.⁵

In determining Petitioner's HMP eligibility, MDHHS factored a group of one person. It was not disputed that Petitioner was the only household member and had no children. Presumably, Petitioner was a tax filer with no dependents. Under the circumstances, Petitioner's benefit group size is one (see BEM 211).

MDHHS presented un rebutted testimony of Petitioner's weekly gross employment income. MDHHS testified that Respondent received [REDACTED] on April 24, 2021, May 1, 2021, May 4, 2021, May 8, 2021, and May 24, 2021.⁶ Multiplying Petitioner's weekly income of [REDACTED] by four, converts the income to a monthly income of [REDACTED]. There was no evidence of applicable income disregards.

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014), p. 1. MDHHS applies a 5% income disregard that is applied to the FPL when the difference would result in a client's eligibility. BEM 500 (July 2017) p. 5. The disregard functionally renders the HMP income limit to be 138% of the FPL. The 2021 federal poverty level is \$12,880 for a one-person group.⁷ For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$17,774.40 (\$1,481.20 per month). Petitioner's monthly income exceeds the HMP income limit.

² Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

³ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁴ <https://www.investopedia.com/terms/a/agi.asp>

⁵ *Id.*

⁶ Petitioner's weekly pay dates were not always seven days apart. Petitioner testified that the pay dates on her pay documents did not always accurately reflect her actual pay dates. However, it was not disputed that Petitioner received [REDACTED] in gross weekly employment income.

⁷ <https://aspe.hhs.gov/poverty-guidelines>

Petitioner testified that she has diligently worked in overcoming alcoholism. Petitioner testified that, despite her perseverance, she suffers chronic pancreatitis and needs medication covered by HMP to continue her employment. Petitioner also testified that she has no opportunities to receive medical coverage through her workplace and that she cannot otherwise afford it. Though Petitioner's circumstances are sympathetic, they do not alter the analysis of whether she is eligible for HMP based on income.

Given the evidence, Petitioner's income exceeded the HMP income limit. As Petitioner was ineligible for any other MA categories, MDHHS properly sent Petitioner termination of HMP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly sent Petitioner notice of MA termination. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki

Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Macomb-20-Hearings
C. George
EQADHearings
BSC4
MOAHR

**Petitioner –
Via First-Class Mail:**

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